

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

PRESTON WADE SIMPSON,)
)
Plaintiff,)
)
v.) No. 1:23-cv-95 SNLJ
)
)
JIMMY KIRKMAN, et al.,)
)
)
Defendants.)

MEMORANDUM AND ORDER

This closed matter is before the Court on self-represented Plaintiff Preston Simpson's "Motion Requesting Leeway to Proceed to Trial." ECF No. 16. This case was dismissed without prejudice under the three-strikes rule, 28 U.S.C. § 1915(g), on August 15, 2023, subject to Plaintiff to refiling as a fully-paid complaint. *See* ECF Nos. 12-13. Approximately seven months after that dismissal, Plaintiff asks the Court to "grant leeway to reopen this case to bring the Defendant(s) to trial on all counts so triable." ECF No. 16 at 1. Plaintiff states that he now has the money to pay the filing fee and he wishes to proceed on his claims. However, Plaintiff has not paid the filing fee. Instead, he wants the Court to reopen the case and call his mother to direct payment of the filing fee. *Id.*

The Court will not call Plaintiff's mother. If Plaintiff wishes to reopen this case, he must pay the full filing fee along with a motion to reopen. However, the Court warns Plaintiff that even if he pays the full fee, because he is a prisoner, his complaint will still be subject to review. Under 28 U.S.C. § 1915A, the Court is required to review and dismiss a complaint filed by a prisoner in a civil action if it is frivolous or malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. §

1915A(b). There is no guarantee that any or all of Plaintiff's claims will proceed in this action even if he pays the filing fee.

As such, the Court will deny Plaintiff's motion to reopen at this time because it is not accompanied with the full filing fee, as required for this action to proceed.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion Requesting Leeway to Proceed to Trial [ECF No. 16], construed as a motion to reopen this case, is **DENIED**.

Dated this 6th day of May, 2024.



STEPHEN N. LIMBAUGH, JR.
SENIOR UNITED STATES DISTRICT JUDGE